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7 Attorneys for Defendants M3T CORP.,  
 8 a California corporation, BENE WEST, INC.,  
 9 a California corporation, COMBEN CORP.,  
 10 a California corporation, NABEN CORP.,  
 11 a California corporation, PASSBEN  
 12 CORPORATION, a Nevada corporation,  
 13 VEBEN CORP., a Nevada corporation,  
 14 WALBEN CORP., a California corporation,  
 15 and MIRANDO LAUTO, a.k.a. NANDO LAUTO

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 17 **UNITED STATES DISTRICT COURT**  
 18 **NORTHERN DISTRICT - San Francisco**

19 BENETTON U.S.A. CORPORATION, a  
 20 Delaware corporation

21 Plaintiff,

22 vs.

23 M3T CORP., a California corporation,  
 24 BENEWEST, INC., a California corporation,  
 25 COMBEN CORP., a California corporation,  
 26 NABEN CORP., a California corporation,  
 27 PASSBEN CORPORATION, a Nevada  
 28 corporation, VEBEN CORP., a Nevada  
 corporation, WALBEN CORP., a California  
 corporation, and MIRANDO LAUTO, a.k.a.  
 NANDO LAUTO, an individual, and DOES  
 1 through 10, inclusive,

Defendants.

**CASE NO. CV10-3843 JCS**

Assigned to: Magistrate Joseph C. Spero  
 Courtroom: A

**APPLICATION OF DEFENDANTS'  
 COUNSEL TO APPEAR  
 TELEPHONICALLY AT CASE  
 MANAGEMENT CONFERENCE;  
 DECLARATION OF PAUL M. KELLEY  
 IN SUPPORT THEREOF**

Hearing Date: December 3, 2010  
 Hearing Time: 1:30 p.m.  
 Courtroom: "A"

TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:


Counsel for all defendants makes application to appear telephonically at the hearing of Plaintiff's Application for Right To Attach Order. The request is made due to the continuing medical condition defendants' counsel, Paul M. Kelley, resulting from a July 18, 2010 accident, and subsequent surgery on September 3, 2010. The accident resulted in three broken vertebrae

(C-2 T-5, and T-6. The fractures of T-5 and T-6 required surgery. In the surgery, 20 screws and approximately 30" of rods were placed in Mr. Kelley's back. The surgeon anticipates that it will take until approximately February of 2011 for the screws to fully set, and while the screws set, has advised Mr. Kelley that he may not lift anything "heavier than a coffee cup." Carrying the files necessary for this hearing from Los Angeles to San Francisco would exceed the "coffee cup" standard. As a result it is requested that Mr. Kelley be permitted to attend the and participate in the hearing telephonically.

DATED: December 2, 2010

DONFELD, KELLEY & ROLLMAN

By:

  
Paul M. Kelley, Attorneys for Defendants M3T CORP., a California corporation, BENE WEST, INC., a California corporation, COMBEN CORP., a California corporation, NABEN CORP., a California corporation, PASSBEN CORPORATION, a Nevada corporation, VEBEN CORP., a Nevada corporation, WALBEN CORP., a California corporation, and MIRANDO LAUTO, a.k.a. NANDO LAUTO

### DECLARATION OF PAUL M. KELLEY

I, Paul M. Kelley, declare:

1. I am the attorney for all named defendants in the matter entitled *Benetton U.S.A. Corporation v. M3T etc. et al*; Case No. 3:10-CV-03843-JCS in the United States District Court, Northern District of California. I have first-hand knowledge of the following facts and would and could testify competently thereto if called upon to do so.

2. On July 18, 2010 I was in a bicycling accident in which I suffered fractures to the C-2, T-5 and T-6 vertebrae. The C-2 fracture was non-displaced and has been treated by immobilization in a neck brace. The neck brace was removed on November 15, 2010.

3. The T-5 and T-6 fractures required surgical intervention. That surgery was conducted on September 3, 2010. Among other things, during the surgery 20 screws and 2 titanium rods (aggregate length approximately 30 inches) were placed in my spine from T-1 through T-10. The doctor, Patrick Johnson, has informed me that it will take approximately six


1 months (February of 2011) for the screws to fully set. I have been instructed that during that  
2 period I should do no bending, lifting or twisting. Particularly with respect to lifting, I have  
3 been instructed by Dr. Johnson's staff that I should lift "nothing heavier than a coffee cup"

4 4. My office is in Los Angeles, where the individual defendant Nando Lauto resides,  
5 and where all of the corporate defendants are based. I am concerned that the trip to San  
6 Francisco for this hearing will require carrying and lifting of materials well in excess of the  
7 weight of a coffee cup. As a result I request that the court permit me to appear telephonically at  
8 th hearing of the Case Management Conference.

9 5. I have discussed this request with plaintiff's counsel, Rodrigo Salas, and he has  
10 indicated that he has no objection to my appearing telephonically.

11 I declare under penalty of perjury, under the laws of the State of California, that the  
12 foregoing is true and correct.

13 EXECUTED this 2nd day of December, 2010, at Los Angeles, California.

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15 \_\_\_\_\_  
16 Paul M. Kelley

17 Dated: Dec. 2, 2010

